

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

HOSODA et al

Serial No. 09/499,027

Filed: February 7, 2000

For: SEMICONDUCTOR LASER DEVICE AND METHOD OF
MANUFACTURING THE SAME



Atty. Ref.: 900-318

Group: 2877

Examiner: Flores Ruiz, D.

* * * * *

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

ELECTION UNDER 35 USC §121

In response to the Office Action dated December 5, 2001 holding the subject matter of claims 1-11 to be non-obvious and patentably distinct from that of claims 12-15, Applicant(s) hereby elect the invention of Group I, (upon which claims 1-11 are readable) for further substantive examination.

This election is made without traverse. However, since a restriction requirement is never proper unless the restricted group of claims is patentably distinct (i.e., inter alia, non-obvious under 35 USC §103) from the elected group of claims, the Examiner is requested to insure that such patentable distinctness is present before proceeding to make the requirement final.

It is respectfully requested that the non-elected claims be retained for use with a possible divisional application.

Respectfully submitted,
NIXON & VANDERHYE P.C.

January 14, 2002

By: 

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900-318



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/499,027	02/07/2000	Masahiro Hosoda	900-318	9626

7590 12/05/2001
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EXAMINER	
FLORES RUIZ, DELMA R	
ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 12/05/2001

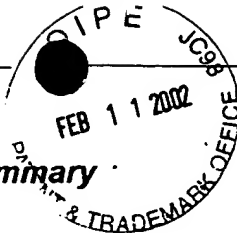
Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETED

CLT/MATTER # 900-318
MAIL DATE 12-5-01
DUE DATE Feb 5, 2002
FINAL DEADLINE JUNE 5, 2002
DOCKETED BY pat/mcs

NIXON & VANDERHYE PC
2001 DEC -7 AM 10:19

Office Action Summary



Application N .

09/499,027

Applicant(s)

HOSODA ET AL.

Examiner

Delma R. Flores Ruiz

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02-07-2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-15 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1 – 11, drawn to a semiconductor device, classified in class 372, subclass 43.
- II. Claims 12 – 15, drawn to a method of manufacturing a semiconductor laser device, classified in class 438, subclass 33.
- ~~III. Claim 13 and 15, drawn to a method of manufacturing a semiconductor laser device, classified in class 438, subclass 43.~~

The inventions are distinct, each from the other because of the following reasons:

Inventions ~~III~~, II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In this case a method of manufacturing a semiconductor device forming a first and second semiconductor laser resonator having a light emitting layer of a similar material on a semiconductor substrate.

Art Unit: 2877

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II and Group III, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Delma R. Flores Ruiz whose telephone number is (703) 308-6238. The examiner can normally be reached on M - F.

Art Unit: 2877

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (703) 308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7724 for After Final communications.

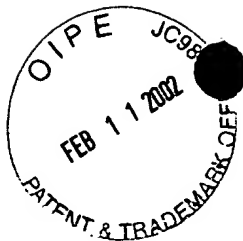
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Delma R. Flores Ruiz
Examiner
Art Unit 2877

Frank G. Font
Supervisor
Art Unit 2877

Drfr
November 16, 2001



Serial No.: 09/499,027
Inventor/s: HOSODA et al

Atty: HWB
Date: 1/14/02
C#/M#: 900-318

Title: Semiconductor Laser Device and Method of
Manufacturing the Same

Amendment
Pages Specification, Claims & Abstract
Claims
Sheets of Drawings
Declaration (Pages)
Assignment (Pages) Including Cover
Priority Document(s)
Base Issue Fee Transmittal
\$ Fee (Check) - **Pre-Bill**
\$ Fee (Check) - Non Pre-Bill



\$0.00 = Total Fee Enclosed

**Other: Election Under 35 USC 121; Amendment
Transmittal**